

CASE NUMBER
7:17-cv-01114-RDP

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II. Defendant provided proper notice

Rule 45(a)(4), *Fed. R. Civ. P.*, requires that a copy of a subpoena for documents must be served on each party “before it is served on the person to whom it is directed.” As Plaintiff admits, Defendant provided notice and copies of six subpoenas to Plaintiff on August 11, 2021. (ECF Docs. 189 at 3 and 189-2). Defendant then served the subpoenas on August 12, 2021—not on August 9 which was merely the date listed on the subpoenas. See Exhibit A. Thus, Defendant complied with his obligation to provide notice to Plaintiff before serving the subpoenas. *See Kemper v. Equity Ins. Co.*, No. 1:15-cv-2961-TCB, 2016 U.S. Dist. LEXIS 186575, at *17, 2016 WL 7428215 (N.D. Ga. Apr. 29, 2016) (one day’s notice of subpoena is sufficient); *Parke v. Glover*, No. CA 09-0327-WS-C, 2010 U.S. Dist. LEXIS 6279, at *7, 2010 WL 370329 (S.D. Ala. Jan. 26, 2010) (“Even if that notice is only one day prior to service of the subpoenas, that should provide parties with sufficient time to file objections and move to quash.”).

III. Plaintiff may not seek to quash the subpoenas as being overly broad

Plaintiff does not have standing to file a motion to quash the subpoenas. “Typically, parties may not move to quash subpoenas, as a ‘party does not have standing to quash a subpoena served on a third party’; however, courts have permitted a party to file such a motion when ‘the party alleges a “personal right or privilege with respect to the materials subpoenaed.”’” *Roche Diagnostics Corp. v. Priority Healthcare Corp.*, No. 2:18-cv-01479-KOB-HNJ, 2019 U.S. Dist. LEXIS 227829, at *13 (N.D. Ala. Nov. 4, 2019) (quoting *Cellairis Franchise, Inc. v. Duarte*, 193 F. Supp. 3d 1379, 1381 (N.D. Ga. 2016), quoting in turn *Brown v. Braddick*, 595 F.2d 961, 967 (5th Cir. 1979)). Earlier in this case, this Court applied the general no-standing rule in denying Defendant’s motion to quash. *Rondini v. Bunn*, No. 7:17-cv-01114-RDP, 2019 U.S. Dist. LEXIS

96447, at *7, 2019 WL 2409134 (N.D. Ala. June 7, 2019).¹ Plaintiff cannot seek to have the subpoenas quashed because he has not argued that he has a personal right or privilege regarding the subpoenaed documents.

Respectfully submitted,

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¹ Although this Court granted, in part, Defendant's motion for a protective order as to the information requested by the subpoenas, *Id.* at *16-*17, this Court's earlier issuance of a protective order does not help Plaintiff because Plaintiff has not moved the Court for a protective order.

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of August, 2021, I electronically filed the foregoing document with the CM/ECF E-Filing Website system, which will send notification of such filing to the following e-mail addresses:

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